In the United States Supreme Court
1 First Street, N.E.
Washington, D.C. 20543

Claudia C. Hoerig, No. _____
Petitioner,

V.

Warden, Dayton Correctional
Institution, Respondent.

MOTION FOR AN EXTENSION OF TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI

1- Pro se petitioner, Claudia C. Hoerig, comes to Request an extension of time to file a Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit (Case No. 24-3382).

2- the Sixth Circuit denied a motion for a COA on Jan-21-2025.

3- the Sixth Circuit denied a motion for Rehearing on 3/26/25.

4- the due date to file a timely Certiorari is Jun-24-2025.

5- Petitioner is not able to prepare and file her brief because the law library has been closed due to the retirement of the librarian 30 days ago and no replacement has yet been found. the law library computers and printer are out of order. Petitioner's brief is saved in the library's computer, but Petitioner has no access to it and is not able to either print it or finish the saved draft. Should the Court need to verify Petitioner's explanation, please contact Ms. Battle, the head of the library.

Respectfully submitted,
Claudia C. Hoerig (W-102849) (June-03-2025)
Claudia C. Hoerig
Dayton Correctional Institution
4104 Germantown Pike, Dayton, Ohio 45417

Hoerig v. Olds, 2025 U.S. App. LEXIS 7053

United States Court of Appeals for the Sixth Circuit

March 26, 2025, Filed

No. 24-3382

Reporter
2025 U.S. App. LEXIS 7053 *

CLAUDIA C. **HOERIG**, Petitioner-Appellant, v. WARDEN SHANNON OLDS, Respondent-Appellee.

Prior History: Hoerig v. Olds, 2025 U.S. App. LEXIS 1296 (6th Cir., Jan. 21, 2025)

Core Terms

en banc, petition for rehearing

Counsel: [*1] CLAUDIA C. **HOERIG**, Petitioner - Appellant, Pro se, Dayton, OH.

For WARDEN SHANNON OLDS, Respondent - Appellee: Jerri L. Fosnaught, Assistant Attorney General, Office of the Attorney General, Columbus, OH.

Judges: Before: NORRIS, MOORE, and READLER, Circuit Judges.

Opinion

ORDER

Claudia C. **Hoerig**, a pro se Ohio prisoner, petitions for rehearing en banc of this court's order on entered January 21, 2025, denying her motion for a certificate of appealability. The petition was initially referred to this panel, on which the original deciding judge does not sit. After review of the petition, this panel issued an order announcing its conclusion that the original application was properly denied. The petition was then circulated to all active members of the court, none of whom requested a vote on the suggestion for an en banc rehearing. Pursuant to established court procedures, the panel now denies the petition for rehearing en banc.

No. 24-3382

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jan 21, 2025
KELLY L. STEPHENS, Clerk

CLAUDIA C. HOERIG,

Petitioner-Appellant,

v.

WARDEN SHANNON OLDS,

Respondent-Appellee.

ORDER

Before: BOGGS, Circuit Judge.

Claudia C. Hoerig, a pro se Ohio prisoner, appeals the district court's judgment denying her petition for a writ of habeas corpus filed under 28 U.S.C. § 2254 and moves this court for a certificate of appealability (COA). For the reasons discussed below, the motion is denied.

In 2019, an Ohio jury found Hoerig guilty of the 2007 aggravated murder of her husband, Karl Hoerig, with a firearm specification. Hoerig admitted that she shot Karl three times but maintained that she did so after the two had a heated argument and that she was attempting to commit suicide. Hoerig was not arrested until 2018, after she was apprehended in and extradited from Brazil. She was sentenced to life in prison. The Ohio Court of Appeals affirmed, *State v. Hoerig*, No. 2019-T-0012, 2020 WL 1685624, at *10 (Ohio Ct. App. Apr. 6, 2020), and the Ohio Supreme Court denied leave to appeal, *State v. Hoerig*, 163 N.E.3d 593 (Ohio 2021) (table).

Hoerig then filed an application to reopen her direct appeal under Ohio Rule of Appellate Procedure 26(B). The Ohio Court of Appeals denied the application, and the Ohio Supreme Court denied leave to appeal. *State v. Hoerig*, 166 N.E.3d 17 (Ohio 2021) (table).

In her § 2254 petition, Hoerig raises 12 claims. Over Hoerig's objections, the district court agreed with the magistrate judge that her claims are either not cognizable, are procedurally

defaulted, were reasonably adjudicated on the merits by the state courts, or lack merit. The district court therefore denied Hoerig's petition and declined to issue a COA.

A COA may be granted "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see Miller-El v. Cockrell*, 537 U.S. 322, 327, 336 (2003). Under the Antiterrorism and Effective Death Penalty Act (AEDPA), when a state court adjudicates the petitioner's claims on the merits, the district court may not grant habeas relief unless the state court's adjudication resulted in "a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States," or "a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254(d); *see Harrington v. Richter*, 562 U.S. 86, 100 (2011). When AEDPA deference applies, a reviewing court, in the COA context, must evaluate the district court's application of § 2254(d) and determine "whether that resolution was debatable amongst jurists of reason." *Miller-El*, 537 U.S. at 336. When the district court's denial is based on a procedural ruling, the movant must demonstrate that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Claim One – Sufficiency of the Evidence

Hoerig claims that the evidence was insufficient to sustain her conviction for aggravated murder.

In reviewing the sufficiency of the evidence, "the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). A reviewing court considers this question "with explicit reference to the substantive elements of the criminal offense as defined by state law." *Id.* at 324 n.16. In a federal habeas proceeding, review of an insufficiency claim is doubly deferential: "First, deference should be given to the trier-of-fact's verdict, as contemplated by *Jackson*; second, deference should

be given to the [state appellate court's] consideration of the trier-of-fact's verdict, as dictated by AEDPA." *Tucker v. Palmer*, 541 F.3d 652, 656 (6th Cir. 2008).

The only element of aggravated murder at issue here is whether Hoerig caused the death of her husband with "prior calculation and design." Ohio Rev. Code § 2903.01(A). "'Prior calculation and design' indicate[s] an act of studied care in planning or analyzing the means of the crime, as well as a scheme compassing the death of the victim." *State v. Walker*, 82 N.E.3d 1124, 1128 (Ohio 2016) (cleaned up). The Ohio Supreme Court typically considers three factors in determining whether a defendant has acted with prior calculation and design: "(1) Did the accused and victim know each other, and if so, was that relationship strained? (2) Did the accused give thought or preparation to choosing the murder weapon or murder site? and (3) Was the act drawn out or an almost instantaneous eruption of events?" *State v. Taylor*, 676 N.E.2d 82, 89 (Ohio 1997) (cleaned up). Importantly, "circumstantial evidence alone" can establish that the defendant killed the victim with "prior calculation and design." *State v. Bowman*, No. 2021-CA-14, 2022 WL 3134359, at *14 (Ohio Ct. App. Aug. 5, 2022) (quoting *State v. Franklin*, 580 N.E.2d 1, 7 (Ohio 1991)).

In rejecting Hoerig's insufficiency claim, the Ohio Court of Appeals described the relevant evidence as follows: a friend of Karl's testified that, in August 2006, Hoerig told her that, "if [Karl] ever leaves me, I'd kill him." *Hoerig*, 2020 WL 1685624, at *1. Another friend of Karl's testified that, in February 2007, Karl told him that he and Hoerig were going to divorce. *Id.* Other evidence showed that Karl rented a house in February 2007 and intended to live there after he and Hoerig separated. *Id.* One month later, Hoerig purchased a revolver—with a laser grip that was installed for her—and ammunition. *Id.* That same day, Hoerig practiced firing the revolver at a shooting range. *Id.* at *1, *3. Five days later, Karl was found dead in his and Hoerig's home. *Id.* at *1. He was found at the bottom of the stairs, covered with a comforter and tarp, and having been shot three times by the revolver that Hoerig purchased. *Id.* at *1-2. After her extradition and arrest, Hoerig admitted that she shot and killed Karl two days after purchasing the firearm. *Id.* at *2. She maintained, though, that she had purchased the firearm to kill herself and that she ended

up killing Karl while intoxicated and after a heated argument with him. *Id.* at *3. According to Hoerig, when talking with Karl about an hour after their argument, he "grabbed her and threw her to the floor" and told her to "do it" (commit suicide) in the basement so that she would not splatter blood on his paintings. *Id.* She then shot Karl three times and allegedly attempted to shoot herself, but failed. *Id.*

When viewing this and all other evidence most favorably to the prosecution, *see Jackson*, 443 U.S. at 319, the Ohio Court of Appeals determined that a rational trier of fact could have found Hoerig guilty of purposefully causing the death of Karl with prior calculation and design. *Id.* at *5. It explained that the fact that Hoerig "purchased a firearm with a laser sight, learned how to use it, and then used it to kill her husband at the next opportunity is evidence which, if believed, would convince the average mind, beyond a reasonable doubt, that she acted with prior calculation and design." *Id.* The district court found this ruling reasonable, reiterating that evidence supporting Hoerig's conviction "included the marriage troubles," which was evidenced by "Karl's intent to divorce her and move out to a rental house[] and [Hoerig's] admitted knowledge that her marriage was failing and that Karl was going to divorce her." Evidence supporting her conviction also included her "pregnancy—unwanted by her husband, [her] purchase of a firearm with a laser sight, her trip to the firing range to learn how to fire it, and her admission that she purchased the gun with the intent to end a life [(albeit her own)]."

In her motion for a COA, Hoerig does not dispute these findings and instead maintains that the State was required and failed to disprove that she acted with "sudden provocation." However, as the district court aptly stated, in Ohio, "*the defendant* has the burden of demonstrating that [s]he had the requisite passion or rage at the time of the murder to be convicted of manslaughter rather than aggravated murder." (emphasis added). *See State v. Rhodes*, 590 N.E.2d 261, 265-66 (Ohio 1992). Moreover, because the *lack* of sudden provocation or "sudden fit of rage" is not an element of aggravated murder—contrary to what Hoerig suggests—the State was not required to prove it at trial. *See Rhodes v. Brigano*, 91 F.3d 803, 804, 809 n.2, 810-11 (6th Cir. 1996).

Hoerig's other challenges to the jury's assessment of the evidence, such as her attempts to explain why she purchased a firearm (to kill herself), are unavailing, as a federal habeas court does "not reweigh the evidence, re-evaluate the credibility of witnesses, or substitute [its] judgment for that of the jury." *Smith v. Nagy*, 962 F.3d 192, 205 (6th Cir. 2020) (quoting *Brown v. Konteh*, 567 F.3d 191, 205 (6th Cir. 2009)). No reasonable jurist therefore could debate the district court's conclusion that the Ohio Court of Appeals did not unreasonably apply *Jackson* in rejecting Hoerig's insufficiency-of-the-evidence claim.

Claim Two – Manifest Weight of the Evidence

Hoerig claims that her conviction is against the manifest weight of the evidence. Reasonable jurists would agree that this claim presents an issue of state law that is not cognizable on federal habeas review. *See Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991); *Nash v. Eberlin*, 258 F. App'x 761, 764 n.4 (6th Cir. 2007).

Claims Three, Four, and Five – Procedurally Defaulted

Hoerig claims that her rights to due process and a fair trial were violated when the trial court allowed the prosecutor to make prejudicial statements during opening arguments (claim three), when the trial court made several prejudicial evidentiary rulings (claim four), and through the cumulative effect of the trial court's errors (claim five). The district court denied these claims as procedurally defaulted because they were not fairly presented to the Ohio courts. *See Pudelski v. Wilson*, 576 F.3d 595, 605 (6th Cir. 2009). To obtain relief under § 2254, a prisoner must first exhaust his state remedies by "giv[ing] the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review process." *O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999); *see* 28 U.S.C.§ 2254(b)(1). When a petitioner has failed to exhaust her state remedies and can no longer do so under state law, her habeas claim is procedurally defaulted. *O'Sullivan*, 526 U.S. at 848.

Hoerig does not dispute that she did not raise her third, fourth, and fifth claims on direct appeal. She therefore failed to invoke one complete round of Ohio's appellate review process. *See id.* at 845. Because Hoerig can no longer present these claims to the Ohio courts under Ohio's

res judicata rule, *see Gray v. Netherland*, 518 U.S. 152, 161-62 (1996); *Hanna v. Ishee*, 694 F.3d 596, 614 (6th Cir. 2012), reasonable jurists could not disagree with the district court's conclusion that these claims are procedurally defaulted. And although a petitioner can overcome a procedural default by showing either (1) cause for the default and prejudice arising therefrom or (2) that she is actually innocent, *Rust v. Zent*, 17 F.3d 155, 160, 162 (6th Cir. 1994), reasonable jurists could not debate the district court's conclusion that Hoerig failed to argue or show that either option excuses her procedural default.[1]

Claims Six through Twelve – Ineffective Assistance of Appellate Counsel

Preliminary Matter – Liberal Construction

Except for a portion of claim six, claims six through twelve raise substantive claims rather than ineffective-assistance-of-appellate-counsel (IAAC) claims. Hoerig, though, raised these claims as IAAC claims in her Rule 26(B) application, and the Ohio Court of Appeals reviewed them on the merits. The district court acknowledged that a Rule 26(B) application preserves only the IAAC claims and not the underlying substantive claims (i.e., those that Hoerig now raises in her habeas petition), *see Wogenstahl v. Mitchell*, 668 F.3d 307, 338 (6th Cir. 2012), but reasoned that claims six through twelve "can reasonably be interpreted to assert sub-grounds for ineffective assistance of appellate counsel." Because pro se habeas petitions are entitled to liberal construction, *see MacLloyd v. United States*, 684 F. App'x 555, 558 (6th Cir. 2017), it was reasonable for the district court to construe claims six through twelve as raising IAAC claims, *see Hudson v. Jones*, 351 F.3d 212, 215 (6th Cir. 2003) (stating that a federal habeas corpus may bypass a procedural-default analysis and proceed to the merits of a petitioner's claims). Thus, below, the court analyzes claims six through twelve as if Hoerig had raised them as IAAC claims in her petition.

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[1] Reasonable jurists would also agree with the district court's conclusions that claims three and four are not cognizable to the extent that Hoerig challenges only the state courts' application of state evidentiary rules, *see Estelle*, 502 U.S. at 67-68, and that claim five does not state a cognizable habeas claim, *see Sheppard v. Bagley*, 657 F.3d 338, 348 (6th Cir. 2011).

AEDPA Standard – IAAC Claims

To establish ineffective assistance of counsel, a defendant must show deficient performance and resulting prejudice. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *see Shaneberger v. Jones*, 615 F.3d 448, 452 (6th Cir. 2010) ("[IAAC] claims are governed by the same *Strickland* standard as claims of ineffective assistance of trial counsel."). To show prejudice in the IAAC context, "the petitioner must demonstrate that the issue not presented 'was clearly stronger than issues that counsel did present.'" *Caver v. Straub*, 349 F.3d 340, 348 (6th Cir. 2003) (quoting *Smith v. Robbins*, 528 U.S. 259, 289 (2000)). "The standards created by *Strickland* and § 2254(d) are both 'highly deferential' and when the two apply in tandem, review is 'doubly' so." *Richter*, 562 U.S. at 105 (quoting *Strickland*, 466 U.S. at 689, and *Knowles v. Mirzayance*, 556 U.S. 111, 123 (2009)). Thus, on habeas review, "[w]hen § 2254(d) applies, the question is not whether counsel's actions were reasonable. The question is whether there is any reasonable argument that counsel satisfied *Strickland*'s deferential standard." *Id.*

Claim Six – Ineffective Assistance of Counsel

In claim six, Hoerig raises a number of ineffective-assistance-of-trial-counsel and IAAC claims.

The magistrate judge construed claim six as primarily "revolv[ing] around Hoerig's contention that Latinos were underrepresented in her jury venire."[2] But the claim was meritless, the magistrate judge reasoned, because Hoerig failed to rebut the presumption that Ohio's method of selecting jury venires—through voter-registration lists—is constitutional. *See Jones v. Bradshaw*, 46 F.4th 459, 483 (6th Cir. 2022). So she had no viable argument that trial counsel should have challenged the composition of the jury venire. *See Tackett v. Trierweiler*, 956 F.3d 358, 375 (6th Cir. 2020) (noting that counsel is not ineffective for failing to raise an issue that lacks merit). The magistrate judge then determined, and the district court agreed, that the

[2] The district court reviewed the magistrate judge's assessment of this claim for clear error only, because Hoerig failed to raise any specific objection to the magistrate judge's recommendation that the claim be dismissed for lack of merit. No reasonable jurist could disagree with the district court's application of clear-error review to this claim.

remainder of claim six "is a rambling, often incoherent, narrative of alleged facts and errors" that "Hoerig failed to meaningfully develop beyond her own self-serving conclusion that they are meritorious." Indeed, most fatal to Hoerig's ineffective-assistance-of-trial-counsel claims is her failure to articulate how any of the many alleged attorney errors yielded a reasonable probability that, but for the error, the result of her trial would have been different. *See Strickland*, 466 U.S. at 687-88. For example, Hoerig claims that trial counsel's failure to authenticate evidence somehow damaged her credibility, yet she fails to explain how that failure was purportedly "fatal[]" to her defense "because she was the only witness in her case." Nor does she explain how her trial-counsel claims are clearly stronger than other issues that appellate counsel raised on appeal. Because "conclusory and perfunctory" allegations of ineffective assistance like the ones presented in claim six "are insufficient to warrant habeas relief," *Wogenstahl*, 668 F.3d at 335-36, reasonable jurists would not debate the district court's denial of this claim.

Claim Seven – Speedy Trial

Hoerig claims that the trial court violated her constitutional rights by denying her motion to dismiss on speedy-trial grounds.

The Ohio Court of Appeals rejected this claim, reasoning that a delay in Hoerig's trial was attributable to her flight to Brazil and opposition to extradition efforts. The district court agreed and elaborated that the trial court had reasonably denied Hoerig's motion to dismiss because the speedy-trial clock did not begin to run until she was arrested in Ohio and, in the years prior to her arrest, she had "opposed [her] extradition" to the United States while the State "zealously pursued each and every opportunity" for her extradition beginning "almost immediately" after the murder. And even if Hoerig may have "[t]echnically" made a prima facie case of a speedy-trial violation, the State met its burden to show that the delay was reasonable in light of Hoerig's efforts to avoid extradition. *See Barker v. Wingo*, 407 U.S. 514, 533 (1972). The district court added that the Ohio Court of Appeals appropriately declined to consider evidence (e.g., newspaper articles) that was not part of the trial court record but that Hoerig proffered in attempt to support her claim that appellate counsel should have challenged the trial court's denial of her motion to dismiss. *See*

State v. Moore, 758 N.E.2d 1130, 1132 (Ohio 2001) (stating that "the effectiveness of appellate counsel [cannot] be judged by adding new matter to the record and then arguing that counsel should have raised these new issues revealed by this newly added material"). On this record and in light of the double deference due under *Strickland* and § 2254(d), no reasonable jurist could debate the district court's conclusion that the Ohio Court of Appeals's rejection of this IAAC claim was not contrary to or an unreasonable application of *Strickland*, or based on an unreasonable determination of the facts.

Claim Eight – Venue Challenge

Hoerig claims that the trial court violated her constitutional rights by denying her motion for a change of venue, which she argued was warranted in view of the publicity that her case received. Prejudice, Hoerig argues, is evidenced in part by the fact that the jury took only three hours to reach a verdict.

A change in venue should be granted if pretrial publicity jeopardizes a defendant's right to a fair trial. *See Irvin v. Dowd*, 366 U.S. 717, 722-24 (1961); *Foley v. Parker*, 488 F.3d 377, 387 (6th Cir. 2007). "[A] searching voir dire of the prospective jurors is the primary tool to determine if the impact of the publicity rises to th[e] level" of actual prejudice. *Ritchie v. Rogers*, 313 F.3d 948, 962 (6th Cir. 2002). "Prejudice from pretrial publicity is rarely presumed," *Foley*, 488 F.3d at 387, and extensive media coverage is insufficient by itself to create a presumption that a defendant was denied a fair trial, *Dobbert v. Florida*, 432 U.S. 282, 303 (1977). Rather, a presumption of prejudice should be applied only in "the extreme case," *Skilling v. United States*, 561 U.S. 358, 381 (2010), where a conviction was "obtained in a trial atmosphere that had been utterly corrupted by press coverage," *Murphy v. Florida*, 421 U.S. 794, 798 (1975).

In rejecting this claim, the Ohio Court of Appeals reasoned that, although Hoerig submitted documents showing that her case garnered pretrial publicity, she "presented no evidence that any juror was actually biased against her." Rather, the evidence showed that most potential jurors "knew little about the case," having recalled reading only "tidbits of headlines." The district court agreed, emphasizing that Hoerig failed to demonstrate that the trial court erred in conducting the

individual voir dire and concluding that the media coverage did not prejudice the jurors. At best, Hoerig showed only that "the murder, investigation, and charges related thereto were publicized" and that the jurors were "already aware of the general allegations against her." Despite this publicity, Hoerig did not demonstrate either that "an inflammatory, circus-like atmosphere pervaded both the courthouse and the surrounding community" or that any seated juror "indicated an inability to set aside any prior knowledge about the case or to judge the case fairly and impartially." *Campbell v. Bradshaw*, 674 F.3d 578, 593, 594 (6th Cir. 2012) (cleaned up). Thus, reasonable jurists would agree that the Ohio Court of Appeals reasonably rejected Hoerig's IAAC claim related to the denial of her motion for a change of venue.

Claims Nine and Ten – Prosecutorial Misconduct

Hoerig claims that her constitutional rights were violated because the prosecutor "failed to correct knowingly false testimony" (claim nine) and "failed to disclose exculpatory evidence" in violation of his obligations under *Brady v. Maryland*, 373 U.S. 83 (1963) (claim ten).

The Ohio Court of Appeals rejected these claims. As to Hoerig's false-testimony claim, the court explained that the allegedly false statements were the prosecutor's arguments—not testimony—and were immaterial to the issue of her guilt in any event. The district court agreed, rejecting Hoerig's argument that the prosecutor violated *Napue v. Illinois*, 360 U.S. 264, 269 (1959), which held that the prosecution "may not knowingly use false evidence, including false testimony, to obtain a tainted conviction." In doing so, the district court reviewed Hoerig's Rule 26(B) application and accurately confirmed that Hoerig identified only the prosecutor's *statements* and *arguments*—not any evidence or witness testimony—to support her false-testimony claim. *Cf. id.* And although Hoerig argued in her objections to the magistrate judge's report and recommendation that the testimony of four witnesses was false, she did not explain how the testimony was false, or show that the prosecutor knew that the testimony was false—two requirements to sustain a false-testimony claim. *See McNeill v. Bagley*, 10 F.4th 588, 604 (6th Cir. 2021). On this record and in light of the double deference due under *Strickland* and § 2254(d), no reasonable jurist could debate the district court's conclusion that the Ohio Court of Appeals's

rejection of claim nine was not contrary to or an unreasonable application of *Strickland*, or based on an unreasonable determination of the facts.[3]

As for Hoerig's *Brady* claim, the district court concluded that Hoerig could not show that appellate counsel was ineffective, because the purportedly undisclosed evidence—"audio recordings," computer records, a "shoe," and a "portion of [a] DVD"—was not part of the trial court record. Because counsel cannot be ineffective by failing to raise a *Brady* claim based on evidence not included in the record, *see Moore*, 758 N.E.2d at 1132; *State v. Wilburn*, 232 N.E.3d 392, 410 (Ohio Ct. App. 2023), no reasonable jurist could debate the district court's conclusion that the Ohio Court of Appeals's rejection of claim ten was not contrary to or an unreasonable application of *Strickland* or based on an unreasonable determination of the facts.

Claim Eleven – Excessive Bail

Hoerig claims that the trial court violated her due-process rights and the Eighth Amendment's Excessive Bail Clause when it set pre-trial bail at $10,000,000. Reasonable jurists could not debate the district court's rejection of this claim, because it is moot in light of her conviction. *See Murphy v. Hunt*, 455 U.S. 478, 481 (1982); *see also United States v. Manthey*, 92 F. App'x 291, 297 (6th Cir. 2004). It follows that reasonable jurists also could not debate the district court's conclusion that appellate counsel reasonably declined to raise an excessive-bail argument on direct appeal, as Hoerig, after being convicted, could not show that she suffered prejudice.

Claim Twelve – Extradition Matters

Hoerig claims that the prosecutor violated the extradition treaty between the United States and Brazil by using false affidavits to secure her extradition, which violated her constitutional right to be tried in Brazil. The district court determined that Hoerig failed to identify any false information that influenced her extradition proceedings and that, moreover, her arguments regarding extradition were beyond the scope of federal habeas review. Indeed, "[t]he scope of

[3] The same goes for Hoerig's claim that trial counsel failed to object to allegedly false testimony.

habeas review of an extradition action is highly constrained," and "'[h]abeas corpus is available only to inquire whether the magistrate had jurisdiction, whether the offense charged is within the treaty and, by a somewhat liberal extension, whether there was any evidence warranting a finding that there was reasonable ground to believe the accused guilty.'" *In re Drayer*, 190 F.3d 410, 415 (6th Cir. 1999) (quoting *Fernandez v. Phillips*, 268 U.S. 311, 312 (1925)). None of Hoerig's arguments fall into these categories. Jurists of reason thus could not debate the district court's rejection of Hoerig's IAAC claim related to her extradition.

The court therefore **DENIES** the motion for a COA.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 01/21/2025.

Case Name: Claudia Hoerig v. Shannon Olds
Case Number: 24-3382

Docket Text:
ORDER filed: The court therefore DENIES the motion for a COA [7186037-2]. No mandate to issue. Danny J. Boggs, Circuit Judge.

The following documents(s) are associated with this transaction:
Document Description: Order

Notice will be sent to:

Ms. Claudia C. Hoerig
Dayton Correctional Institution
P.O. Box 17399
Dayton, OH 45418

A copy of this notice will be issued to:

Ms. Jerri L. Fosnaught
Ms. Sandy Opacich

No. 24-3382

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

CLAUDIA C. HOERIG,)
)
Petitioner-Appellant,)
)
v.) ORDER
)
WARDEN SHANNON OLDS,)
)
Respondent-Appellee.)

Before: NORRIS, MOORE, and READLER, Circuit Judges.

Claudia C. Hoerig, a pro se Ohio prisoner, petitions for rehearing en banc of this court's order on entered January 21, 2025, denying her motion for a certificate of appealability. The petition was initially referred to this panel, on which the original deciding judge does not sit. After review of the petition, this panel issued an order announcing its conclusion that the original application was properly denied. The petition was then circulated to all active members of the court, none of whom requested a vote on the suggestion for an en banc rehearing. Pursuant to established court procedures, the panel now denies the petition for rehearing en banc.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens

Kelly L. Stephens, Clerk